



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,331	09/26/2003	Arthur Silverman	SILVERLINE 3.0-016	8416
530	7590	03/29/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	
DATE MAILED: 03/29/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/672,331	Applicant(s) SILVERMAN, ARTHUR	
	Examiner Jerry Redman	Art Unit 3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006 and 17 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10-13, 15, 17-20, 22, 23, 25-27, 29, 30, 32, 33 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-13, 15, 17-20, 22, 23, 25-27, 29, 30, 32, 33 and 35-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/13/06 &amp; 1/17/06</u> . | 6) <input type="checkbox"/> Other: _____  |

The applicant's information disclosure statements dated 1/13/2006 and 1/17/2006 have been considered and a copy has been placed in the file. It appears that the Information disclosure statements are identical. Furthermore, the JP reference is crossed through in both statements because the reference has already been cited.

Status of the claims is as follows:

Claims 7-9, 14, 16, 21, 24, 28, 31, and 34 have been cancelled; and

Claims 1-6, 10-13, 15, 17-20, 22-23, 25-27, 29-30, 32-33, and 35-41 are herein addressed below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 10, 11, 13, 17, 19, 29, 30, 35, 36, 38, and 40-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese patent No. 58210289A to Sowa. Japanese patent No. 58210289A to Sowa discloses a window assembly comprising a window frame (3), a window sash (4) constructed to be positioned within the window frame (3) and capable of moving from a closed position to an open-tilted position and vice versa, a pair of parallel pivot pins (18) on the window sash (4), a pair of kidney shaped receptacles (14 and 16, claim 17 recites these as channels) disposed

Art Unit: 3634

within the window frame (3) which accommodate movement of the window sash (4) from the closed position to the open-tilted position and vice versa. Japanese patent No. 58210289A to Sowa further discloses the window sash (4) cooperating with the window frame (3) to limit the extend of the open-tilted position (the upstanding wall to the left of the kidney shaped receptacle as shown in Figures 2 and 3 with the upstanding wall acting as a water dam with the top portion of the wall angled 90 degrees for supporting the window sash (4)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 12, 18, 29, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent No. 58210289A to Sowa in view of Yanessa ('201). All of the elements of the instant invention are discussed in detail except providing the pivot pins to be retractable. Yanessa ('201) discloses a sliding/pivoting sash having pivot pins, which are retractable. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Japanese patent No. 58210289A to Sowa with retractable pins as taught by Yanessa ('201) since retractable pivot pins allows the sash to be easily removed and attached to the window frame.

Claims 4, 15, 20, 22, 23, 25, 26, 32, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent No. 58210289A to Sowa in view of

Menegazzo ('911). All of the elements of the instant invention are discussed in detail above except providing a channel extending along a portion of the window frame.

Menegazzo ('911) discloses a window assembly comprising channel guide (16) extending along a window frame and having a kidney shaped receptacle (17) at a pivoting end. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the window assembly of Japanese patent No. 58210289A to Sowa with a channel guide extending along a portion of the frame as taught by Menegazzo ('911) since a channel extending a portion of the window frame allows the window sash to be tilted greater than 90 degrees from the normal.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent No. 58210289A to Sowa and Menegazzo as applied to claim 26 above, and further in view of Yanessa ('201). All of the elements of the instant invention are discussed in detail except providing the pivot pins to be retractable. Yanessa ('201) discloses a sliding/pivoting sash having pivot pins, which are retractable. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Japanese patent No. 58210289A to Sowa with retractable pins as taught by Yanessa ('201) since retractable pivot pins allows the sash to be easily removed and attached to the window frame.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. The applicant appears to rely on language such as "formed within". Firstly, it

Art Unit: 3634

appears that the applicant is arguing how the window assembly is formed (method steps) and not the apparatus itself. If the applicant intends on relying on "how" the window assembly is formed then the applicant should be considered claims directed towards the method of forming the window assembly and not the apparatus itself.

Secondly, in its broadest interpretation, "formed within" is one element mounted to/within another element. Maybe the applicant is suggesting that the two elements are an integral single piece formed of the same material. Assuming this is the case, then the two pieces that are integrally attached together to form a single piece would also read on the applicant's claimed invention. Still furthermore, the applicant appears to be relying on phraseology such as "capable of..." which fails to positively limit the claimed invention. The art merely needs to be able to perform the recited function. Yet still furthermore, the applicant states that Sowa fails to teach a "water dam". As discussed in detail above, Sowa clearly discloses a "water dam" per se and would clearly dam up water.


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3634

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.



**Jerry Redman**  
**Primary Examiner**